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**A Short Epistle
on the Foundations
of Islamic Jurisprudence**





In the Name of Allah, the All-Merciful, the Most Merciful

O *Allāh*, we ask You to send salutations upon *Muhammad* and upon his family, companions, and followers until the day of judgment, and we ask You to grant [them] plenty of peace.

To Proceed:

Indeed the foundations of Islamic jurisprudence are a noble and vital field of knowledge. By understanding it the seeker of knowledge gains the ability to properly analyze the bases of rulings, becomes adept at extracting evidence for the lawful and unlawful, can utilize it to derive legal rulings from the Book and prophetic tradition (*Sunnah*), and understands how to achieve all of this.

This is a summary which I have selected from the books of the foundations of Islamic Jurisprudence. In it, I have only included that which is vital and required, and have strived to clarify it since the need for clarification and elucidation is greater than the need for erasure and summarization.

I have hope in *Allāh* for aid, adherence to the correct path, and to tread the way of guidance and uprightness, by His bounty and generosity. *Āmīn*.

Know that the foundations of Islamic jurisprudence are the evidences which lead to it. Its bases are the Book, prophetic tradition (*Sunnah*), scholarly consensus (*Ijmā'*), and legal analogy (*Qiyās*).

There are **five legal rulings**:

1 Obligatory (Wājib)

It is that which whoever does it is rewarded, and whoever leaves it is punished.

2 Unlawful (Harām)

It is what opposes it (obligatory)

3 Recommended (Masnūn)

It is that which whoever does it is rewarded, and whoever leaves it is not punished.

4 Detested (Makrūh)

It is what opposes it (recommended)

5 Permitted (Mubāh)

It is that which neither praise nor censure is related to it.

If a command appears in the Book or prophetic tradition the default is that it shows obligation, except if an indicator (*Qarīnah*) directs it towards recommendation or permission, usually if it succeeds forbiddance. A prohibition shows unlawfulness except due to an indicator which directs it towards detestation.

Words should be considered to be:

Upon their literal meaning rather than what they call “figurative.”

Upon generality, rather than specificity.

Upon independence, rather than implication.

Upon unrestrictedness, rather than restrictedness.

Establishing a ruling, instead of emphasizing it.

Distinct, instead of synonymous.

Unabrogated instead of abrogated, except if evidence points to the contrary of the aforementioned.

According to the Legislator's parlance if it's the Legislator's speech, and upon the speaker's parlance in contractual matters and those related to it.

Means adopt the rulings of ends.

Whatever is necessary to complete an obligatory action is also obligatory; however, whatever is necessary for an action to be deemed obligatory is not obligatory.

A valid act of worship is one in which all of its conditions and requisites are present, and all of its invalidators are absent, whereas the null and invalid are on the contrary. Such is also the case in contracts and transactions.

Whatever is demanded by the Legislator from every morally responsible individual (*Mukallaf*) themselves is a personal requisite (*Fard 'Ayn*), whereas whatever is intended only to be performed and completed, with benefit for the one who does it, then it is a communal requisite (*Fard Kifāyah*).

If it is performed by those who are able to meet the requirement it suffices for the rest; however, if nobody performs it all of those who have knowledge of, and ability to do it then fall into sin, and it becomes a personal requisite upon all those who know that those besides them will not be able to perform it either due to inability or negligence.

If two benefits unite the greater of them should be chosen, whereas if two harms [unite], and one of them has to be undertaken, the lesser of them should be undertaken.

If the lawful is blurred with the unlawful in the absence of necessity it is obligatory to refrain from both.

The command denotes urgency.

The legislative wisdom, which is also called a legal rationale (*'Illah*), is the suitable reasoning due to which the ruling was legislated, thus the ruling encompasses all which is encompassed by its legal rationale. Likewise, the general wording is specified if its legal rationale is known.

1 A cause (*Sabab*)

is that which necessitates presence due to its presence, and absence in itself due to its absence.

2 A condition (Shart)

is that which necessitates absence due to its absence, however its presence necessitates neither presence nor absence in itself.

• Original ruling ('Azīmah)

is a ruling established upon a legislative proof devoid of any superior opposition.

• Dispensation (Rukhsah)

It is what opposes it (original ruling)

There is no sin upon those who forget, err, or are forced, and their actions do not lead to the invalidation of an act of worship, nor are they compelled by any contract; nevertheless, those who forget or err have to compensate for whatever personal or property damage they have caused.

The prophetic tradition consists of the statements, actions, and approvals of the Prophet, may Allāh send salutation and peace upon him.

As for his statements then it's clear. As for his actions then the default is that they are recommended and an indicator can direct them towards obligation or specificity, except those actions of his which are known to not have been performed as an act of legislation, such as the actions which he performed - as unilaterally agreed- generally unintentionally, since they are considered simply lawful. The default is that he is an exemplar for his nation (*Ummah*) in all rulings except those specified by evidence.

His approval of something indicates permissibility except by evidence [indicating the contrary]. His statements are opted for over his actions.

The scholarly consensus of the nation upon a legislative ruling is absolute evidence; it isn't lawful for anybody to oppose a known consensus. A consensus must be derived from legislative evidence which should be known to the practitioners of independent reasoning, even if it is some of them.

The mass-transmitted (*Mutawatir*) report, whether in wording or concept, provides certainty with the condition that it is transmitted by a group so numerous that it is inconceivable that they have agreed upon a lie or error. If it does not reach this magnitude it is called singular (*Āhād*). Nevertheless, some singular reports can possibly be supported by indicators to the extent that they provide certainty.

The statement of a companion, if he is unopposed, is from the evidences; however, if he is met with opposition preference (*Tarjīh*) is to be resorted to.

If the opinion of a narrator opposes his narration his narration is adopted instead of his opinion.

The command to a matter is a prohibition of its opposite, and the prohibition of a matter is a command to its opposite.

If unlawfulness pertains to the act of worship itself or its condition it is rendered invalid; however, if it pertains to a matter external to it, it is considered unlawful but not invalid.

From the modes of generality are: whoever (*man*), whatever (*mā*), whichever (*ayy*), whatever is related to them, and relative pronouns. Words which clearly express generality include every (*kull*), all (*ajma'*), and those similar to them, as well as the plurals and genera which are attached to a definite article, the singular attached to a non-specific definite article, the singular attributed to a proper noun, and the indefinite noun in the context of negation, prohibition, condition, or interrogation.

A generality can be specified by a condition, characteristic, or likewise. This is applied both in the speech of the Legislator and the speech of the morally responsible individuals.

Unrestricted terms should be considered to be upon the [meaning of] restricted terms which have occurred in another place, except if this implies the delayment of information past the required period.

Equivocal and ambiguous terms should be considered to be upon the [meaning of] defined, clear, and unequivocal terms which occur in another place.

It is incumbent to apply the apparent meaning and to not depart from it except due to evidence.

Statements have denotations which either accord to its wording, or the meaning falls within its wordings thus entering its denotation. It also has connotations, which is the unpronounced meaning. In the case that it is more deserving of a ruling than the denotation it is called a compatible connotation, the ruling of which is more applicable upon it than upon the denotation. However, if it is opposed it is called a contraried connotation, such that the ruling upon it is opposite to the ruling upon the denotation. This is subject to the conditions of it not leaving that which is predominant, not being in response to an individual's question, and not being in the context of aggrandization, favor, or relating the event which led to the mentioned ruling.

Abrogation is the removal of a legal ruling through later legal evidence. It is not to be resorted to except if it is unfeasible to reconcile between two scriptural texts from every aspect.

As for legal analogy, then it is the equation of a subsidiary which has not been mentioned in the scriptural texts with a foundation which has been mentioned in the scriptural texts, provided that the legal rationale is one, such that there is no distinction between both of them. This is based upon the unification of those matters which are similar in ruling, and separation of those which are distinct. It is a proof according to the majority of scholars of the foundations of Islamic jurisprudence (*Usūliyyīn*); however, it greatly varies in its strength and weakness.

The **established legal maxims** include:

- ① *The default is whatever is [remains] as it is.*
- ② *Harm is not to be removed by harm.*
- ③ *Necessities permit forbiddens.*
- ④ *Inability does away with obligation.*
- ⑤ *Difficulty brings about ease.*
- ⑥ *Reference to customs in several matters.*
- ⑦ *The default is that all acts of worship are forbidden, thus none are legislated except those legislated by Allāh and His messenger.*
- ⑧ *The default is that all habitual matters are lawful, thus none are prohibited except those prohibited by Allāh and His messenger.*
- ⑨ *Contracts are established through whatever statements or actions indicate the intent of both parties of a contract or transaction.*
- ⑩ *Intentions and aims are taken into account in transactions, as they are taken into account in acts of worship.*
- ⑪ *In the case of contradiction the strongest driver of preference is applied, thus an inferior position could be affected by a driver of preference which renders it equal to the superior position or better than it.*

Completed, and all praise is due to Allāh alone. May Allāh send salutations upon Muhammad, and upon his family and companions, and grant [them] peace.

Assalamu'alaikum wa rahmatullahi wa barakatuhu,

We pray that this message reaches you
in good health and imaan.

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May Allah make our paths toward seeking beneficial
knowledge easy and kindle our hearts with sincerity
and gratefulness towards Him.

Jazakumullahu Khayran



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